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FIRST NAMED INVENTOR ATTORNEY DOCKET NO. CONFIRMATION NO. APPLICATION NO. FILING DATE 7709 50121-00003 10/809,139 03/25/2004 John A. Eaton **EXAMINER** 25231 7590 09/14/2005 WEAVER, SUE A MARSH, FISCHMANN & BREYFOGLE LLP 3151 SOUTH VAUGHN WAY PAPER NUMBER ART UNIT SUITE 411

> 3727 DATE MAILED: 09/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

		E	
	Application No.	Applicant(s)	
	10/809,139	EATON ET AL.	
Office Action Summary	Examiner	Art Unit	
	Sue A. Weaver	3727	
The MAILING DATE of this communication Period for Reply	n appears on the cover sheet	with the correspondence address	
A SHORTENED STATUTORY PERIOD FOR RI WHICHEVER IS LONGER, FROM THE MAILIN - Extensions of time may be available under the provisions of 37 CI after SIX (6) MONTHS from the mailing date of this communicatio - If NO period for reply is specified above, the maximum statutory p - Failure to reply within the set or extended period for reply will, by a Any reply received by the Office later than three months after the earned patent term adjustment. See 37 CFR 1.704(b).	G DATE OF THIS COMMUN FR 1.136(a). In no event, however, may in. eriod will apply and will expire SIX (6) Mi statute, cause the application to become	IICATION. a reply be timely filed DNTHS from the mailing date of this communication. ABANDONED (35 U.S.C. § 133).	
Status			
1) Responsive to communication(s) filed on			
·— ·	This action is non-final.		
3) Since this application is in condition for all closed in accordance with the practice unc	owance except for formal ma		
Disposition of Claims			
4) Claim(s) <u>1-24</u> is/are pending in the application 4a) Of the above claim(s) is/are with 5) Claim(s) is/are allowed. 6) Claim(s) <u>1-24</u> is/are rejected. 7) Claim(s) is/are objected to. 8) Claim(s) are subject to restriction a	ndrawn from consideration.		
Application Papers			
9) The specification is objected to by the Exa 10) The drawing(s) filed on 25 March 2004 is/a Applicant may not request that any objection to Replacement drawing sheet(s) including the co 11) The oath or declaration is objected to by the	are: a)⊠ accepted or b)☐ on the drawing(s) be held in abeyonection is required if the drawing	ance. See 37 CFR 1.85(a). g(s) is objected to. See 37 CFR 1.121(d).	
Priority under 35 U.S.C. § 119			
12) Acknowledgment is made of a claim for for a) All b) Some * c) None of: 1. Certified copies of the priority docur 2. Certified copies of the priority docur 3. Copies of the certified copies of the application from the International But * See the attached detailed Office action for a	ments have been received. ments have been received in priority documents have bee ureau (PCT Rule 17.2(a)).	Application No on received in this National Stage	
Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-94: 3) Information Disclosure Statement(s) (PTO-1449 or PTO/S Paper No(s)/Mail Date	8) Paper N	v Summary (PTO-413) o(s)/Mail Date f Informal Patent Application (PTO-152) 	

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1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 13-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 13 recites the limitation the bottom wall and "side walls" in line 9. There is insufficient antecedent basis for this limitation in the claim. Applicants set forth a sidewall with faces.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- 3. Claims 1, 4 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Scheetz, Jr et al '850.

Note the sloped grooves 40 in the sidewall of the beverage bottle of Scheetz, Jr. et al.

- 4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
 - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

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Claims 1 and 4-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Khovaylo et al '021.

Note the design for a beverage bottle by Khovaylo et al which has V shaped grooves in the sidewall which can inherently receive the fingers and thumb when the bottle is gripped.

5. Claims 1-4, 9, 10, 13-18, 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weick et al '127 in view of Sosenko.

Both Weick et al and Sosenko teach beverage bottles with grooves. The groves of Weick et al are angled and may function to aid in gripping. In any event to have sized the grooves for receiving a finger would have been obvious in view of such teaching by Sosenko at 8. Note that the angle grooves of Weick et al may be discontinuous and lie on one face as at 42 in a generally rectangular container. Note also the recessed bottom of Weick et al in Figure 8.

6. Claims 5-8 and 19-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1 and 13 above, and further in view of Krishnakumar et al '990.

To have formed the groove such that it is V shaped would have been obvious in view of such teaching by Krishnakumar et al at 88.

7. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 9 above, and further in view of Dyer '451.

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The position in which the container is gripped is considered to be dependent in part on the size. However to have optionally gripped the container form the bottom with the corner in the palm would have been obvious in view of Dyer.

- 8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Schmitt, Ramsey, Michalowski, Kamineni et al, Payne et al, Colani, Josephsen et al, Cheng et al Creaver, Muchmore, Platte, Buckely, Van Dyk et al, Schoonover et al and Brown show other containers with grooves and gripping constructions.
- 9. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sue A. Weaver whose telephone number is (571) 272-4548. The examiner can normally be reached on Tuesday-Friday (6-4:30).

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

